

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

ROBERT PICCIOTTI and
THERESA PICCIOTTI, individually
and as parents and guardians of
GABRIEL PICCIOTTI,

Plaintiffs,

vs.

CALEB D. ABNEY, individually and
as agent for LAURIE A. ABNEY, and
WILLIAM J. ABNEY, and LAURIE A. ABNEY,
individually, and WILLIAM J. ABNEY,
individually, TNT FIREWORKS
SUPERCENTER, ANDERSON & ANDERSON,
LLC. d/b/a TNT FIREWORKS SUPERCENTER,
AMERICAN PROMOTIONAL EVENTS, INC. –
EAST d//b/a TNT SUPERCENTER, A PRISM
FIREWORKS FACTORY OUTLET, SAFETY
4TH FLORIDA FIREWORKS d/b/a A PRISM
FIREWORKS FACTORY OUTLET, SAFETY
“4TH” FIREWORKS, INC. d/b/a A PRISM
FIREWORKS FACTORY OUTLET &
AMERICAN FREEDOM ENTERPRISES, LLC.
d/b/a A PRISM FIRE WORKS FACTORY
OUTLET,

Defendants.

:
:
:
:
: CIVIL ACTION NO: _____
:
: JULY TRIAL DEMANDED

COMPLAINT

COMES NOW, ROBERT PICCIOTTI and THERESA PICCIOTTI, individually and as
parents and guardians of GABRIEL PICCIOTTI, a minor, Plaintiffs in the above-styled case
In the United States District Court for the Middle District of Georgia
Valdosta Division

Robert Picciotti and Theresa Picciotti, individually and as parents and guardians of Gabriel Picciotti, a
minor vs. Caleb D. Abney, individually and as agent for Laurie A. Abney and William J. Abney,
Laurie A. Abney, individually, and William J. Abney, individually, Anderson & Anderson, LLC d/b/a TNT
Fireworks Supercenter, American Promotional Events, Inc. – East, d/b/a TNT Fireworks Supercenter
Safety 4th Florida Fireworks d/b/a A Prism Fireworks Factory Outlet, Safety “4th” Fireworks, Inc. d/b/a
A Prism Fireworks Factory Outlet and American Freedom Enterprises, LLC. d/b/a

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action and files their COMPLAINT against the Defendants, CALEB D. ABNEY, individually, and as agent for LAURIE A. ABNEY and WILLIAM J. ABNEY, LAURIE A. ABNEY, individually, and WILLIAM J. ABNEY, individually, TNT FIREWORKS SUPERCENTER, ANDERSON & ANDERSON, LLC d/b/a TNT FIREWORKS SUPERCENTER, AMERICAN PROMOTIONAL EVENTS, INC. – EAST d/b/a TNT FIREWORKS SUPERCENTER, A PRISM FIREWORKS FACTORY OUTLET, SAFETY 4TH FLORIDA FIREWORKS d/b/a A PRISM FIREWORKS FACTORY OUTLET, SAFETY “4TH” FIREWORKS, INC. d/b/a A PRISM FIREWORKS FACTORY OUTLET, and AMERICAN FREEDOM ENTERPRISES d/b/a A PRISM FIREWORKS FACTORY OUTLET, showing the Court the following:

1.

Plaintiffs, Robert Picciotti and Theresa Picciotti, individually and as parents and guardians of Gabriel Picciotti, a minor, are citizens and residents of the State of Georgia, Lowndes County, which is located within the geographical territory assigned to the United States District Court for the Middle District of Georgia, Valdosta Division, and is subject to the jurisdiction of this Honorable Court.

2.

Defendant, Caleb D. Abney, individually and as an agent for Laurie A. Abney and William J. Abney, is a citizen and resident of the State of Georgia, Lowndes County, which is located within the geographical territory assigned to the United States District Court for

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the Middle District of Georgia, Valdosta Division, and is subject to the jurisdiction of this Honorable Court.

3.

Defendant, Caleb D. Abney, can be served at his residence located at 5128 Lanes Pond Road, Valdosta, Lowndes County, Georgia 31601.

4.

Defendant, Laurie A. Abney, is a citizen and resident of the State of Georgia, Lowndes County, which is located within the geographical territory assigned to the United States District Court for the Middle District of Georgia, Valdosta Division, and is subject to the jurisdiction of this Honorable Court.

5.

Defendant, Laurie A. Abney, can be served at her residence located at 5128 Lanes Pond Road, Valdosta, Lowndes County, Georgia 31601.

6.

Defendant, William J. Abney, is a citizen and resident of the State of Georgia, Lowndes County, which is located within the geographical territory assigned to the United States District Court for the Middle District of Georgia, Valdosta Division, and is subject to the jurisdiction of this Honorable Court.

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7.

Defendant, William J. Abney, can be served at his residence located at 5128 Lanes Pond Road, Valdosta, Lowndes County, Georgia 31601.

8.

Defendant, Anderson & Anderson, LLC, d/b/a TNT Fireworks Supercenter owns property located at 2019 Hamilton Avenue, Jennings, Florida 32053.

9.

Defendant, Anderson & Anderson, LLC, d/b/a/ TNT Fireworks Supercenter maintains a firework business at 2019 Hamilton Avenue, Jennings, Florida 32053.

10.

Defendant, Anderson & Anderson, LLC, d/b/a TNT Fireworks Supercenter, is a foreign for-profit corporation organized under the laws of the State of Alabama.

11.

Defendant, Anderson & Anderson, LLC, can be served by and through its registered agent, Charles C. Anderson, 202 North Court Street, Florence, Alabama 35630.

12.

Defendant, American Promotional Events, Inc. – East, d/b/a as TNT Fireworks Supercenter, in conjunction with Defendant, Anderson & Anderson, maintains a business located at 2019 Hamilton Avenue, Jennings, Florida, specifically, TNT Fireworks

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Supercenter.

13.

Defendant, American Promotional Events, Inc. – East d/b/a TNT Fireworks Supercenter, is a foreign for-profit corporation organized under the laws of the State of Florida.

14.

Defendant, American Promotional Events, Inc. – East, can be served by and through its registered agent CT Corporation System, 1200 South Pine Island Road, Plantation, Florida 33324.

15.

Defendants, TNT Fireworks Supercenter, Anderson & Anderson, LLC., and American Promotional Events, Inc. – East, will hereinafter be referred to collectively as “Defendant TNT”.

16.

Defendant, American Freedom Enterprises, LLC. d/b/a A Prism Fireworks Factory Outlet, owns property located at 1838 Hamilton Avenue, Jennings, Florida 32053.

17.

Defendant, American Freedom Enterprises, LLC. d/b/a A Prism Fireworks Factory Outlet is a foreign for-profit corporation organized under the laws of the State of Ohio.

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18.

Defendant, American Freedom Enterprises, LLC. can be served by and through its registered agent, Eric Abdalla, Post Office 114, Stratton, Ohio 43961.

19.

Defendant, Safety 4th Florida Fireworks d/b/a A Prism Fireworks Factory Outlet, maintains a fireworks business located at 1838 Hamilton Avenue, Jennings, Florida 32053; specifically, A Prism Fireworks Factory Outlet.

20.

Defendant, Safety 4th Florida Fireworks d/b/a A Prism Fireworks Factory Outlet is a foreign for-profit corporation organized under the laws of the State of Ohio.

21.

Defendant, Safety 4th Florida Fireworks, can be served by and through their registered agent, Eric Abdalla, Post Office 114, Stratton, Ohio 43961.

22.

Defendant, Safety "4th" Fireworks, Inc. d/b/a A Prism Fireworks Factory Outlet, maintains a fireworks business at 1838 Hamilton Avenue, Jennings, Florida 32053, specifically, A Prism Fireworks Factory Outlet.

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23.

Defendant, Safety "4th" Fireworks, Inc. d/b/a A Prism Fireworks Factory Outlet is a foreign for-profit corporation organized under the laws of the State of Ohio.

24.

Defendant, Safety "4th" Fireworks, Inc., can be served by and through its registered agent, Eric Abdalla, Post Office 114, Stratton, Ohio 43961.

25.

Defendant, American Freedom Enterprises, LLC, in conjunction with Defendants, Safety 4th Florida Fireworks, and Safety "4th" Fireworks, Inc. d/b/a A Prism Fireworks Factory Outlet, maintains a fireworks business at 1838 Hamilton Avenue, Jennings, Florida 32053, specifically, A Prism Fireworks Factory Outlet.

26.

Defendants, A Prism Fireworks Factory Outlet, American Freedom Enterprises, LLC, Safety 4th Florida Fireworks, and Safety "4th" Fireworks, Inc., hereinafter will be collectively referred to as "Defendant Prism".

27.

This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332 (a)(1) as there is complete diversity of citizenship and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

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28.

Venue is proper in this Honorable Court pursuant to 28 USC § 1391.

29.

Plaintiffs, Robert and Theresa Picciotti, individually and on behalf of Gabriel Picciotti, a minor, states their intention and desire to bring each and every permissible, proper, and authorized claim for damages under Georgia law, including general, special, compensatory, consequential, economic, punitive, and other damages as proven by the evidence at trial.

30.

There are no prerequisites to the bringing of this cause of action which have not been satisfied.

31.

On or about July 4, 2017, Defendant, Caleb D. Abney, was traveling south on County Road 145, in Jennings, Hamilton County, Florida.

32.

Defendant, Caleb D. Abney, was driving a 2007 Jeep.

33.

Defendant, Caleb D. Abney, was the host driver to three passengers including Plaintiff, Gabriel Picciotti.

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34.

Plaintiff, Gabriel Picciotti, was a guest passenger riding in the backseat of the 2007 Jeep being operated by the host driver, Defendant, Caleb D. Abney.

35.

Plaintiff, Gabriel Picciotti, as a guest passenger, was entitled to his assume that his host driver, Defendant, Caleb D. Abney, would not operate the 2007 Jeep in a negligent manner.

36.

Defendant, Caleb D. Abney, failed to maintain his lane of travel in the southbound lane of County Road 145.

37.

Defendant, Caleb D. Abney, failed to maintain control of the 2007 Jeep in which Plaintiff, Gabriel Picciotti, was a guest passenger.

38.

Defendant, Caleb D. Abney, steered the 2007 Jeep out of the southbound lane of County Road 145.

39.

Defendant, Caleb D. Abney, admitted that he veered onto the west shoulder of County Road 145.

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40.

Defendant, Caleb D. Abney, admitted that he veered onto the west shoulder of County Road 145 and overcorrected the 2007 Jeep.

41.

Defendant, Caleb D. Abney, overcorrected the 2007 Jeep into the northbound lane of County Road 145.

42.

Defendant, Caleb D. Abney, steered the 2007 Jeep across the northbound lane of County Road 145.

43.

Defendant, Caleb D. Abney, steered the 2007 Jeep into the east ditch of County Road 145.

44.

Defendant, Caleb D. Abney, steered the 2007 Jeep into a tree.

45.

Defendant's, Caleb D. Abney's, steered the 2007 Jeep into a tree with such force and impact that it caused severe damage to the body of his guest passenger, Plaintiff, Gabriel Picciotti.

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46.

Defendant, Caleb D. Abney, failed to keep the 2007 Jeep under control.

47.

Defendant, Caleb D. Abney, was operating his cellphone while traveling south on CR 145 and immediately prior to the 2007 Jeep's collision with the tree.

48.

Defendant, Caleb D. Abney, drove with reckless disregard for the safety of his guest passenger, Plaintiff, Gabriel Picciotti.

49.

Defendant, Caleb D. Abney, was traveling too fast for conditions immediately prior to the 2007 Jeep's collision with the tree.

50.

As a result of Defendant's, Caleb D. Abney's, negligence, Gabriel Piccotti has suffered severe and permanent bodily injuries.

51.

Defendant, Caleb D. Abney, was negligent in the following particulars, but not limited to these particulars:

- a) Failure to keep a proper look out;
- b) Failure to keep his vehicle under control;

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- c) Reckless driving, which is negligence per se;
- d) Failure to Maintain Lane, which is negligence per se;
- e) Too Fast for Conditions, which is negligence per se;
- f) Texting While Driving and/or violation of the hands free law, which is negligence per se; and,
- g) Failure to take all actions necessary to avoid a collision.

52.

The cause in fact and proximate cause of the collision was solely the negligence of Defendant, Caleb D. Abney.

53.

Defendant, Caleb D. Abney, was operating the 2007 Jeep as an agent for and with the permission of Defendants, Laurie A. Abney and William J. Abney.

54.

Defendant, Laurie A. Abney, negligently entrusted her son, Defendant, Caleb D. Abney, with the 2007 Jeep.

55.

Defendant, William J. Abney, negligently entrusted his son, Defendant, Caleb D. Abney, with the 2007 Jeep.

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56.

The negligence of Defendant, Caleb D. Abney, is imputed to Defendant, Laurie A. Abney.

57.

The negligence of Defendant, Caleb D. Abney, is imputed to Defendant, William J. Abney.

58.

Plaintiff, Gabriel Picciotti, as a guest passenger, did not consent to Defendant's, Caleb D. Abney's, negligent driving.

59.

The cause in fact and proximate cause of the collision was solely the negligence of Defendant, Caleb D. Abney, Defendant, Laurie A. Abney, and Defendant, William J. Abney, and their combined negligence.

60.

As a result of the Defendants' combined negligence, Plaintiff, Gabriel Picciotti, has suffered the following bodily injuries, but not limited to the following:

- 1) Orif right posterior wall and loose body retrieval
- 2) Complex bilateral nasorbithmoidal (NOE) fractures
- 3) Left frontal sinus anterior table fracture
- 4) Left orbital blowout fracture

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- 5) Left zygomaticomaxillary complex (ZMC) fracture
- 6) Closed fracture of the distal end of the radius
- 7) Fractures of both orbits, left greater than right
- 8) Fracture to all four walls of the left orbit
- 9) Extensive fractures throughout both maxillary sinuses involving all walls
- 10) Highly comminuted nasal fracture-displaced and depressed with nasal septal fracture
- 11) Obvious deformity to the right lower extremity
- 12) Posterior right hip dislocation with comminuted fracture of the posterior acetabulum with loose bodies in the joint
- 13) Injury of sciatic nerve at hip and thigh level, right leg
- 14) Contusion of lung, unilateral
- 15) Contusion of eyeball and orbital tissues, left eye
- 16) Interval reduction of the right hip
- 17) Labrum attached to wall fragment, intercalary free joint space
- 18) Tenderness to palpation in the right lower extremity about the hip
- 19) Edema of left orbit
- 20) Swelling in right lower extremity
- 21) Right hip pain
- 22) Left eye pain

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- 23) Laceration without foreign body of oral cavity
- 24) Swollen tender nose with blood in nostril
- 25) Swollen left periorbital region with eschymosis present
- 26) Blurry Vision
- 27) Double Vision
- 28) Dried blood around the mouth
- 29) Head injury
- 30) Loss of consciousness
- 31) Headache

60.

As a result of the Defendants' combined negligence, Plaintiffs, Robert Picciotti and Theresa Picciotti, have incurred the following medical and medically related expenses, but not limited to the following on behalf of their minor son, Plaintiff, Gabriel Picciotti:

1. University of Florida Health	\$ 104,437.48
2. Shands Physicians	\$ 27,473.66
3. South Georgia Medical Center	\$ 20,037.25
4. Florida Clinical Practice	\$ 5,857.00
5. Radiology Associates of Valdosta	\$ 618.00
6. Sutherland Physical Therapy	\$ 220.00

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TOTAL

\$158,643.39

61.

Plaintiffs, Robert Picciotti and Theresa Picciotti, continue to incur medical and medically related expenses on behalf of Plaintiff, Gabriel Picciotti.

62.

Plaintiff, Gabriel Picciotti, has suffered permanent bodily injuries.

63.

Plaintiff, Gabriel Picciotti, was 15 years of age on the date and time of the collision referred to in this Complaint.

64.

Plaintiff, Gabriel Picciotti, had a life expectancy of 59.07 years on the date and time of the collision referred to in this Complaint.

65.

Plaintiffs have reason to believe that Defendant, Caleb Abney, will allege that fireworks were ignited inside the 2007 Jeep, which contributed to and/or caused Defendant, Caleb Abney, to lose control of the 2007 Jeep on the date and time of the collision referred to herein.

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66.

On or about July 4, 2017, Defendant TNT, by and through its owner(s), operator(s), agent(s), and/or employee(s) was operating a fireworks store located at 2019 Hamilton Avenue, Jennings, Florida 32053.

67.

On or about July 4, 2017, Defendant, Caleb Abney, a minor, along with other minors entered Defendant TNT's fireworks store to purchase fireworks.

68.

Defendant TNT, by and through its owners, operator(s), agent(s), and/or employee(s), sold fireworks to Defendant, Caleb Abney, and/or other minors with him, particularly, Clay MacFarland, a minor.

69.

The sale of fireworks in Florida is regulated pursuant to FL. Stat. §791.001 et seq.

70.

Defendant TNT negligently sold fireworks to Defendant, Caleb Abney, and/or other minors with him, in violation of FL. Stat. §791.001 et seq.

71.

As a result of Defendant TNT's negligent sale of fireworks to Defendant, Caleb Abney, and/or other minors with him, Plaintiff, Gabriel Picciotti, suffered severe and

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permanent bodily injuries.

72.

The cause in fact and proximate cause of the severe and permanent bodily injuries suffered by Plaintiff, Gabriel Picciotti, was solely and/or in part due to Defendant TNT's negligence.

73.

The cause in fact and proximate cause of the collision was solely the negligence of Defendant TNT and/or its combined negligence with the other named Defendants.

74.

On or about July 4, 2017, Defendant Prism, by and through its owner(s), operator(s), agent(s), and/or employee(s) was operating a fireworks store located at 1838 Hamilton Avenue, Jennings, Florida 32053.

75.

On or about July 4, 2017, Defendant, Caleb Abney, a minor, along with other minors entered Defendant Prism's fireworks store to purchase fireworks.

76.

Defendant Prism, by and through its owners, operator(s), agent(s), and/or employee(s), sold fireworks to Defendant, Caleb Abney, and/or other minors with him, particularly, Clay MacFarland, a minor.

In the United States District Court for the Middle District of Georgia
Valdosta Division

Robert Picciotti and Theresa Picciotti, individually and as parents and guardians of Gabriel Picciotti, a minor vs. Caleb D. Abney, individually and as agent for Laurie A. Abney and William J. Abney, Laurie A. Abney, individually, and William J. Abney, individually, Anderson & Anderson, LLC d/b/a TNT Fireworks Supercenter, American Promotional Events, Inc. – East, d/b/a TNT Fireworks Supercenter Safety 4th Florida Fireworks d/b/a A Prism Fireworks Factory Outlet, Safety "4th" Fireworks, Inc. d/b/a A Prism Fireworks Factory Outlet and American Freedom Enterprises, LLC. d/b/a

A Prism Fireworks Factory Outlet

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77.

Defendant Prism negligently sold fireworks to Defendant, Caleb Abney, and/or other minors with him, in violation of FL. Stat. §791.001 et seq.

78.

As a result of Defendant Prism's negligent sale of fireworks to Defendant, Caleb Abney, and/or other minors with him, Plaintiff, Gabriel Picciotti, suffered severe and permanent bodily injuries.

79.

The cause in fact and proximate cause of the severe and permanent bodily injuries suffered by Plaintiff, Gabriel Picciotti, was solely and/or in part due to Defendant Prism's negligence.

80.

The cause in fact and proximate cause of the collision was solely the negligence of Defendant Prism and/or its combined negligence with the other named Defendants.

WHEREFORE, Plaintiffs, Robert Picciotti and Theresa Picciotti, individually and as parents and guardians of Plaintiff, Gabriel Picciotti, pray as follows:

- a) That process issue and the Defendants be served as required by law;
- b) A trial by jury;
- c) Judgment against the Defendants in an amount to be determined by the enlightened conscious of the jury; and,
- d) Such other and further relief that the Court may deem just and proper.

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Laurie A. Abney, individually, and William J. Abney, individually, Anderson & Anderson, LLC d/b/a TNT
Fireworks Supercenter, American Promotional Events, Inc. – East, d/b/a TNT Fireworks Supercenter
Safety 4th Florida Fireworks d/b/a A Prism Fireworks Factory Outlet, Safety "4th" Fireworks, Inc. d/b/a
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